Remarks

Claims 1-18 are pending in this application. Claims 1-10 and 13-18 have been rejected and claims 11 and 12 are objected to. The applicant has amended certain of the claims in a manner that is believed to overcome the prior art references cited by the Examiner. In addition, upon review of the claims, applicant believes that U.S. Patent No. 5,771,758, which is commonly owned with this application is also relevant, as it discloses a vertically split, integrated hydrostatic transaxle. The amendments herein also distinguish the claims from this reference.

Claims 1-7, 10 and 14-18 have been rejected as being anticipated by U.S. Patent No. 5,836,159 to Shimizu. This patent shows a hydrostatic transaxle having a horizontal split line, *i.e.*, a split line where the upper housing and lower housing meet on a plane that is parallel to the motor shaft. Therefore, the motor shaft does not extend through one of the housing elements. The housing element relied upon by the Examiner is a cap on which a trunnion extends. This is different from the independent claims as they have been amended herewith.

Specifically, the '159 patent does not disclose a transaxle where the motor shaft extends past a housing joint surface, nor does it disclose a transaxle where the axles extend out of both housing members, as required by the claims as amended.

Claim 1-5, 8 and 9 have also been rejected under §102(e) as being anticipated by U.S. Patent No. 5,339,631 to Ohashi. Ohashi also shows a horizontal split line having a first housing member 1 and a second housing member 2 split about a plane that intersects the motor shaft 12. The thrust bearing 8 extends on both sides of the joint surface. Therefore, the Ohashi '631 patent does not show a transaxle where the center section is between the joint surface and the thrust bearing.

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U.S. Patent No. 5,771,758, which was previously cited in an Information Disclosure Statement, shows a vertical split line where one axle extends through one housing member 14 and the other axle extends through housing member 12. The center section 21 is located between the thrust bearing and the split line. However, the motor shaft in the '758 patent does not have a first portion supported by one of the housing and a second portion supported by the center section, as required by the claims as amended. Rather, the motor shaft 34 is entirely supported by the center section in the '758 reference. Therefore, it is believed that these claims, as amended, are patentable over the '758 reference as well.

It is believed that Applicant has addressed all of the outstanding matters and it is requested that this application be granted a Notice of Allowance at the earliest possible date. Please contact the undersigned attorney if there are any questions.

A one month Petition for an Extension of Time is submitted herewith, along with a Fee Transmittal Form. Any other fees required by this Response may be charged to our firm's Deposit Account No. 502,261.

Date: June 2, 2005

By: Thomas C. McDonough

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Certificate of Mailing: The undersigned hereby certifies that this document and its enclosures are being faxed to the Commissioner for Patents, 703/872-9306 this 2 day of June, 2005.

By: Kelly A. Breese

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